

1906-027
Lee Co.

Chancery Causes: James M. Flanary & vs. Ella Flanary &

Slump

CA-Estate Dispute
T-Property

Oversize
Box 1:
-1 Plat

To the Hon.H.A.W.Skeen, judge of the Circuit court for Lee Co.

Humbly complaining, your orators and oratrices, Louisa Flanary, James M. Flanary, Jr., H.N. Flanary and M. Belle Slemph, would respectfully represent unto your honor, that Alexander C. Flanary about six weeks ago departed this life intestate, but seised of a valuable tract or parcel of land of about 300 acres, lying and being in Lee County, Va, on the Wallen's Creek; that said Louisa Flanary was the wife and now the widow of said Alexander C. Flanary, and as such is entitled to dower in and to the lands of which her said husband died the owner; that the said James M. Flanary, Jr., H.N. Flanary, M. Belle Slemph, and Ella Flanary, M.S. Flanary, and W.B. Flanary were the only children and heirs at law of the said Alexander C. Flanary, and as such are entitled to the lands aforesaid subject to the dower rights of the said Louisa therein; that the said Ella Flanary, M.S. Flanary and W.B. Flanary are infants under the age of 21 years old, and will have to be defended in this cause by a guardian ad litem; and that said lands of aforesaid are capable of partition and division among the said heirs at law. As evidence of the ownership of said Alexander C. Flanary to the lands aforesaid your complainants here file certified copies of his deeds to the land owned by him at the time of his death, marked exhibit "A", "B" & "C", and prayed to be taken as a part hereof.

Now the premises considered, your orators are advised that they are entitled to have said land partitioned among them, each taking a one-sixth part of the same; that the said Louisa Flanary is entitled to have dower assigned in and to the said lands; ~~that~~ and to that end they humbly pray. The further prayer of your said orators is that said Ella Flanary, M.S. Flanary, W.B. Flanary, be made parties defendants to this bill; that they be required to answer the same, but they need not do so on oath, as that is waived; that a guardian ad litem be appointed for each of said defendants, as they are each infants; that proper commissioners be appointed to go upon said land, assigning to said Louisa a dower in the same; the said land be equally partitioned in value among the said

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six heirs of said Alexander C. Flanary; and that all other, further and general relief be awarded your complainants that the nature of their cause may require. And they will ever pray, etc.

Pennington Bros P.Q.

J. M. Flanagan & Co

vs Bill

Ella Flanagan & Co

Bill filed in court
Sept - 26th 1905
H. L. Cuming, clk.

In the Circuit Court for the County of Lee,
to-wit:

THE ANSWER OF Ella Flanary, m.s. Flanary and
W.B. Flanary,

infant under the age of twenty-one years, by m.s. Ely,
guardian *ad litem*, assigned to defend them in this suit, to a bill of complaint exhibited against
them and others in the Circuit Court for the County of
Lee, by Louisa Flanary, and others.

The respondent, reserving to themselves the benefit of all just exceptions to the said bill, for
answer thereto, answering by said guardian *ad litem*, say that they are infants of
tender years, and by reason of such disability are incapable of understanding, or of
taking care of their rights and interests. They therefore commend the same
to the protection of the court, and prays that no decree may be pronounced which will tend
to their prejudice.

And having answered, the respondent pray to be hence dismissed with their
reasonable costs, in this behalf expended; and they will ever pray, &c.

m.s. Ely

Guardian *ad litem*.

p. d.

County
OF
Lee

ss.

This day, m.s. Ely, whose name is signed to
the foregoing answer, personally appeared before me, H. C. Joslyn J. P.
and made oath that the statements made therein, so far as they depend upon his own knowl-
edge, are true, and so far as they depend upon knowledge derived from others he believes them
to be true.

Given under my hand, this 26th day of sept. 1905

H. C. Joslyn J. P.

Ella Manoy et al.

adv. }

ANSWER
OF
INFANT DEFENDANT.

Luisa Manoy et al.

H. A. L. Fee \$5.00

James M. Flanary et als. Complainants.

Vs.

In Chancery.

Ella Flanary, et als. Defendants.

This cause came on this the *11th* day of December, 1906, to be further heard upon the ~~xxxxxxxxxxxx~~ papers formerly read in this cuase, and the reports of Commissioner E.W. Pennington filed herein on the 11th day of December, 1906, and was argued by counsel:

On consideration of all which, and said reports being unexcepted to it is adjudged, ordered and decreed that said reports and the disbursements of said Commissioner be and the same are hereby confirmed and the said Commissioner released from any further liability on his bond herein as he appears to have properly discharged his duties and accounted for all moneys which came into his hands; and his report of the deed to the mill lot of land heretofore sold by him to H.L. Slemp, is hereby confirmed, and the said Slemp and all those claiming under him shall have the right to take and possess the said mill lot of land, as decribed in said Pennington's deed free from any claim of any of the parties to this suit. And there being nothing further to be done herein, this cuase is stricken from the docket.

J. W. Flanary et als.

Vs. De cree.

Ella Flanary et la.

*Entered in COB
8, page 232*

Enter this the 11th day of
Dec., 1906.

H. A. L. S. L.

Judge.

James M. Flanary, Jr. et als. Complainants.

Vs.

In Chancery.

Elia Flanary et als, Defendants.

This cause came on again this day to be further heard upon the papers formerly read therein, and the report of Commissioner E.W. Pennington, showing that H.L. Slemp, the purchaser of the mill lot of land in this case has fully paid him for the purchase price, and that he has in his hands the sum of \$361.80 for distribution, and was argued by counsel.

On consideration of all which, and for reasons appearing to the court, and said report being unexcepted to, it is adjudged, ordered and decreed that said report be and the same is hereby confirmed. And the said Pennington will pay out said sum of money in equal portions to the six heirs of said A.C. Flanary, taking their receipts for the same, except as to the shares of Milford S. & W.B. Flanary, who are infants, he will pay their share to J.M. Flanary, Jr., their guaradina. Out of each ones share he will retain the sum of \$2.50 as an attorney fee for attending to the matters and things in this cause.

And it apprearing from the said report that the said H.L. Slemp, has fully paid the purchase money for the lands bought by him in this cause, and is now entield to a deed to the same, it is therefore further adjudged, ordered and decreed that said E.W. Pennington, who is hereby appointed a psecial commissioner for the purpose will make and acknowledge, a deed to the said land to the said Slemp, for which services the said Slemp shall pay to the said Pennington the sum of \$5.00.

And this cause is passed to a future day of this term.

J.M.Flanary Jr. et al.

Vs. Decree.

Ella Flanary, et al.

*Entered in C.O.B.
#8, page 225*

Enter this Dec., 10, 1906.

H. A. W. Silver

Judge

James M. Flanary, Jr. et als. Plaintiffs,

Vs.

In Chancery.

Ella Flanary, Et als.

Defendants.

This cause came on this the *19* day of February, 1906, to be heard upon the papers formerly read in the cause, and the report of E.W. Pennington, Special commissioner, filed herein on on the *17th* day of February, 1906, and was argued by counsel. On consideration of all which, it is adjudged, ordered and decreed that said report of sale made ^{by} said Pennington to H.L. Slomp be, and the same is hereby confirmed. Said Comr. Pennington will retain for his commissions for making said sale \$17.00 and he will *paid him by Slomp* pay the residue [^] shown in his report out to those entitled, and when he has done so, he will take receipts for such payments and report his action to this court. And when the deferred payments *mentioned in his said report* for the sale of land is due, he will collect the same, and report [^] to this court. And this ^{cause} ~~suit~~ is continued.

J. M. Flannery for et al
vs Deane No. 3

Ella Flannery et al
Entered in C.O.B.
No. 8, page 120.

Entered this
Feb. 19th 1906
Haw. Supr

James M. Flanary, Jr. et al.,

Complainant.

vs.

In Chy.

Ella Flanary et al.

Defendants.

This cause came ^{on} again this day to be heard upon the papers formerly read therein, and the report and plat of partition ^{of} Commissioners, W.E. Thompson, V.S. Banner, W.E. Fletcher and W.S. Hickam filed in this cause on the 13th day of December, 1905, and was argued by counsel.

On consideration of all which, and said report of partition ^{and plat} being unexcepted to, it is adjudged, ordered and decreed that said ^{plat} report and partition of the land of Alexander C. Flanary, be and the same is hereby confirmed; and the said Louisa Flanary, widow of said Alexander C. Flanary, ^{as and for her dower} will take and hold ^{as} lots Numbers one and nine mentioned and described by meets and bounds in said report for and during her natural life; that James M. Flanary, Jr. a son of said A.C. Flanary will take and hold in fee-simple lots Nos. two and eight described in said report and plat, it being a two-sixths interest in said Flanary's real estate exclusive of the lands in said dower lots; that W. Bates Flanary, another son of A.C. Flanary, take and hold in fee-simple lots. No. three, six and seven described in said report and plat by meets and bounds, exclusive of the lands in said dower lots; that Millard ^{J.} Flanary, another son of said A.C. Flanary, take and hold in fee-simple lot No. four described by meets and bounds in said report and plat, exclusive of the lands in said dower lots; and that H. Nelson Flanary, another son of said A.C. Flanary, take and hold in fee-simple lot No. five ^{and which is a two-sixths interest in said A.C. Flanary lands, a} described by meets and bounds in said report and plat. Said dower lots are subject to partition among those entitled after the termination of the life of said Louisa Flanary.

exclusive of said dower lots

It is also further adjudged, ordered and decreed that the clerk of this court will record in the proper deed book in the clerk's office for this County the order appointing said commissioners,

said report and plat of said commissioners and so much of this order as pertains to the confirmation of said report and plat; said James M. Flanary and H. Nelson Flanary, will each pay two-sixths of the costs of these proceedings, and that W. Bates Flanary and Millard F. Flanary will each pay one-sixth of the same, which if not done within 30 days an execution may issue in favor of the officers of the court for such costs, as taxed by the clerk of this court.

And it appearing to the court ^{from} ~~for~~ said report of said commissioners that there was owned by said A.C. Flanary a mill on his lands which could not have been conveniently partitioned among his said heirs, and that a sale of the same is necessary and advisable. It is therefore further adjudged, ordered and decreed that E.W. Pennington, who is hereby appointed a special commissioner for the purpose will, after advertising the time, terms and place of sale said Mill and one acre of land around the same ^{as} ~~and~~ described in said report and plat, by posting written or printed notices at as many as three public places in said county, one of which shall be in the neighborhood of said mill, one at the front door of the courthouse of this county, and one at J.F. Witt's store at Zion's Mills for thirty days, offer said mill and lot for sale at public auction to the highest and best bidder at such place as he may deem proper; and on a credit of one and two years time, except a sum sufficient to pay the commissions of sale and all costs attending such sale which he will require to be paid down, and for the residue he will take notes payable to himself as such commissioner, bearing ^{with good security} interest from date of sale, which notes when due, he will collect and pay out as the court may hereafter direct. And he will report his action to court. But before said Commissioner shall proceed to sell said mill and lot of land, he will execute bond before the clerk of this court in the penalty of \$800.00 conditioned to faithfully account for all moneys which may come into his hands by reason of this order. And this cause is continued.

Virginia, Lee County, to-wit:

In the Clerk's Office of Lee County, on this the 12th day of April, 1906. The foregoing decrees, Commissioners' report and plat were presented, and admitted to record.

Teste: L. H. T. King, Clerk.

James M. Filmer, et al

vs
Decree
no. 2

Ella Filmer, et al

Entered in C.O.B.

No 8, page 101 &c.

3

Enter this
Dec. 1st 1905
J. A. W. S. / L. H. T. King

Recorded in Book
Book 44 page 1406
Examined & indexed

James M. Flanary, Jr. Louisa Flanary, H.N. Flanary,
and M. Belle Siemp, Complainants.

Vs.

In Chancery.

Ella Flanary, M.S. Flanary and W.B. Flanary, Defts.

This cause by consent came on this day to be heard upon the bill of the plaintiffs, and exhibits filed therewith, the answer of Ella Flanary, M.S. Flanary and W.B. Flanary infants by their guardian ad litem, ~~W.H.~~ M.G. Ely, who is hereby appointed to defend the said infants, and general replication thereto, and was argued by counsel:

On consideration of all which and for reasons appearing to the court it is hereby adjudged, ordered and decreed that W.E. Thompson, V.S. Banner, W.E. Fletcher and W.S. Hickam, be and are hereby appointed ~~xxxxxxx~~ commissioners for the purpose to go upon the land of said Alexander C. Flanary decd., and described in the bill and proceedings of said plaintiffs, and partition the same among the said plaintiffs and defendants, assigning to said Louisa Flanary, the widow of said decedent dower in and to said lands of one equal third in rental value around the mansion of house of said decedent; and they will partition said land among said plaintiffs and defendants, who are the sole heirs of said decedent, allotting and assigning to each a one-sixth part of the same in equal value; and in making such partition and assignment, they will have due regard to water, roads, timbers, and other conveniences. And they will report their action to the court. And this cause is continued.

J. M. Flanagan et al

vs Deane
No. 1

Ella Flanagan et al

Entered in C.O.B. 8

p. 85

Recorded in Deed
Book 44 page 111.

Examined 1906
Indexed

Enter this

Sept. 26 - 1905

H. A. W. Allen

Virginia,

At a Circuit Court continued and held for Lee County, at the Court-house thereof, on Tuesday the 26th day of September, 1905.

James F. Flanary, Jr., Louisa Flanary, H. N.

Flanary, and M. Belle Slemph

Complainants.

Vs. In Chancery.

Ella Flanary, M. S. Flanary and W. B. Flanary, Defendants.

This cause by consent came on this day to be heard upon the bill of the plaintiffs, and exhibits filed therewith the answer of Ella Flanary, M. S. Flanary and W. B. Flanary, infants by their guardian ad litem, M. G. Ely, who is hereby appointed to defend the said infants, and general replication thereto, and was argued by counsel:

On consideration of all which and for reasons appearing to the Court it is hereby adjudged, ordered and decreed that W. E. Thompson, V. S. Banner, W. E. Fletcher, and W. S. Hickam, be and are hereby appointed commissioners for the purpose, to go upon the land of said Alexander C. Flanary, dec'd, and described in the bill and proceedings of said plaintiffs, and defendants assigning, to said Louisa Flanary, the widow of said decedent dower in and to said lands of one equal third in rental value around the mansion of house of said decedent; and they will partition said land among said plaintiffs and defendants, who are the sale heirs of said decedent, allotting and assigning to each a one-sixth part of the same in equal value; and in making such partition and assignment, they will have due regard to water, roads, timbers, and other conveniences. And they will report their action to the court.

And this cause is continued.

A Copy-Teste: H. C. T. Ewing
Clerk.

Clerk.

A copy-true:

And this cause is continued.

And they will report **open** action to the court.

Jas. H. Flannery et al
vs. Duer

Ella Flannery et al

copy

as. In Chancery.

Flannery, and M. Belle Stamp

James F. Flannery, Jr., Louisa Flannery, H. H.

court-house thereof, on Tuesday the 28th day of September, 1903.

At a Circuit Court continued and held for Lee County, at the
Virginia,

N. E. Thompson
Executed by delivering
a true copy of the
within to W. E.
Thompson, this
Oct. 13, 1903.
J. P. Hughes, D.D.
J. P. M. Ball
S. L. C.
Clerk 804

Commissioners.

Virginia,

At a Circuit Court continued and held for Lee County, at the Court-house thereof, on Tuesday the 26th day of September, 1905.

James F. Flanary, Jr., Louisa Flanary, H. N.

Flanary, and M. Belle Slomp

Complainants.

Vs. In Chancery.

Ella Flanary, M. S. Flanary and W. B. Flanary, Defendants.

This cause by consent came on this day to be heard upon the bill of the plaintiffs, and exhibits filed therewith the answer of Ella Flanary, M. S. Flanary and W. B. Flanary, infants by their guardian ad litem, M. G. Ely, who is hereby appointed to defend the said infants, and general replication thereto, and was argued by counsel:

On consideration of all which and for reasons appearing to the Court it is hereby adjudged, ordered and decreed that W. E. Thompson, V. S. Banner, W. E. Fletcher, and W. S. Hickam, be and are hereby appointed commissioners for the purpose, to go upon the land of said Alexander C. Flanary, dec'd, and described in the bill and proceedings of said plaintiffs, and defendants assigning, to said Louisa Flanary, the widow of said decedent dower in and to said lands of one equal third in rental value around the mansion of house of said decedent; and they will partition said land among said plaintiffs and defendants, who are the sole heirs of said decedent, allotting and assigning to each a one-sixth part of the same in equal value; and in making such partition and assignment, they will have due regard to water, roads, timbers, and other conveniences. And they will report their action to the court.

And this cause is continued.

A Copy-Teste: H. C. T. Ewing,
Clerk.

Jas. H. Flannery et al
vs. Decree

Ella Flannery et al

copy

Chick 304

LAND SALE . LAND SALE .

J.M.Flanary,Jr.et als. Complainants.

Vs.

Callie Slomp,et als. Defendants.

The undersigned pursuant to a decree entered in the above styled cause at the December,Term,1905 of the Circuit Court for Lee County,Va.,will,on the 3rd day of February 1906,at the front door of the court house for Lee County,Va., offer for sale at public outcry and to the highest and best bidder,a certain lot or parcel of land,said to contain one acre,and on which is the mill,and being the property of A.C. Flanary,in his life time,which lot of land and mill is situated on Wallens Creek in Lee County,Va., Said sale will be made on a credit of one and two years time,except a sum sufficient to pay the costs of said suit and Commissions of sale will be required to be paid down,and the residue will be evidenced by notes of the purchaser with good security,bearing interest from date of sale. For a more particular description of said lot of land,reference is here made to the report of the Commissioners who partitioned the estate of the said A.C. Flanary,and filed in said cause,at the Clerk's office for Lee County,Va.

This the 1st day of January,1906.

E. W. Pennington.

Commissioner.

Copy of a document
E. W. P.

James M. Flanary, Jr., et als. Plaintiffs,

Vs. Report of Sale of Mill and Lot.

Ella Flanary, et als. Defendants.

Your undersigned, E.W. Pennington, Special Commissioner, appointed in the above styled cause on the 13th day of December, 1905, by the Circuit Court for Lee County, to sell the and one acre of land, and the water rights connected therewith, mentioned and described in the report of Commissioners W.E. Thompson, et als., filed in this cause on the 13th day of December, 1905, and described therein as follows, to-wit: BEGINNING at a stake 16 feet ~~xxxx~~ S.W. of three small white oaks on the bluff, oposite and east of said Mill, S.45 W.18-1/2 P. to a stake in the bottom; N.25 W.12 P. to a stake; N.72 E.17-1/2 P. to a walnut on the bluff, and so passing and running as to include the mill in the lot of land; S.21 E.4 Poles to the BEGINNING, and containing one acre, more or less. Said Mill and lot is to have with it the use of the mill-pond as it is now situated, beg leave to report that after advertising the time, terms nad place of sale of said mill lot and land and pond, by written NOTICES thereof at the places mentioned in said order directing him to make said sale, and at several other places for more than 30 days previous to the day of sale, at the front door of the court house of Lee County, Va., (the place mentioned in the said advertisements) on Saturady the 3rd day of February, 1906, at about 11:30 A.M. of that day, he offered said property at public auction for sale to the highest and best bidder on the terms required in said order of said court. And after crying the sale of the same for a considerable time and after sprited bidding by various persons, he knocked the said mill, property, etc. down to one H. L. Slemp, who was the best and highest bidder for the sum of \$400.00.

After said property was knowcked down to the said Slemp, he paid your commissioner \$54.50, the costs and commissions of sale, and executed to him his two notes, bearing interest from date of sale, due

and payable in one and two years, respectively, with one C.E. Flannery as his surety, and each note for the sum of \$172.75. Your Commissioner does not personally know said property, but from what he has heard said of the same, he recommends that said sale be confirmed, as it brought a fair price.

Your commissioner, holds said sum of \$54.50 subject to your honors order to be made herein; but should said sale be confirmed, he begs to say that \$17.00 thereof is for commissions, and he prays that he be allowed the same for making the said sale.

All which is respectfully submitted, this the 6th day of Feb. 1906.

E. H. Cunningham

Special Comr.

J. M. Flanagan et al
vs. Report of
mill lot sale

Ella Flanagan et al

Filed February 19, 1906

H. J. Ewing
Clerk

J. M. Flanary, Jr., et als. Complainants.

VS.

In Chancery.

Ella Flanary, et als. Defts:-

To the Hon. H. A. S. Skeen, Judge of the circuit court for Lee County:

We the undersigned Commissioners appointed in the above styled cause on the 26th day of September, 1905, by your honor's court, to "go upon the land of Alexander C. Flanary, decd., and described in the bill and proceedings of said plaintiffs, and assigning to Louisa Flanary, the widow of said decedent dower in and said lands equal to one-third in rental value around the mansion house of said decedent; and to partition said land among the said plaintiffs and defendants, who were the sole heirs of said decedent, allotting and assigning to each a one-third part in equal value, and making such partition having due regard to water, roads, timbers and other conveniences, beg leave to report,

~~XXXXXXXXXX~~

~~XXXXXXX~~ that beginning on the 28th day of November, and succeeding days, making in all seven days, ending on the 4th day of December, 1905, they went upon the lands of which said Alexander C. Flanary died seised and possessed for the purpose of carrying out the orders of your honor in said cause. That the first thing they did was to survey the whole of the lands of said Flanary, the meets and bounds of which are as follows, to-wit: Beginning at a rock, on Siberts line, originally two beeches, thence N. 4-1/4 E. 109 poles to a stake on top of a bluff; thence N. 25 E. crossing Wllaen's creek, 10 poles to a stake, on the north bank of said creek; thence down said creek N. 64-1/2 W. 14 poles to a stake; N. 68-1/2 W. 20 P. to a sycamore; thence leaving the said creek, N. 27 W. 22 P., to a stake, N. 19-1/2 W. 103 P. to a dog wood and black oak; thence N. 37-1/4 E. 73 P. to a planted rock on the west side of Bradley's branch; thence down said branch, S. 11-3/4 E. 3-1/2 P. to a stake. thence S. 33-1/2 E. 10 P. and three feet to a planted rock, corner to the Allen Four acre lot; thence with line of the same, leaving said branch, N. 39 E. 3-1/4 P. to a rock on the side of the hill, thence N. 66 E. 7-1/2 P. to a sourwood; N. 15 W. 52 P.

to poniters, one being an old marked gum; thence S.66 W.14-1/2 P. to a rock on the west bank of Bradley's branch; thence up the said branch, N.6 W.22 P. to rocks; thence N.42-1/2 E.2 P. to a stake in the branch; N.14 W.24 P. to a stake near a beech tree; thence N.62 E. 27-3/4 P. to white oak; N72-1/2 E.13-1/2 P. to two white oaks on top of the ridge, corner to the Lawson land; thence with line of the same, S.41-1/4 E.170 P. to a stake and a black oak on J. Monrow Flanary's land; thence with a line of the same 71-1/4 W.50-1/2 P. to a stake on the south bank of the road; S.22-1/2 E.14 P. to a stake, on the south bank of Wallen's creek; S.2-1/4 E.48-1/4 P. to three small white oaks; on a bluff opposite the mill; S.22 E.110-1/2 P. to a stake and buckeye on Sibert's line; thence with the same S.76-1/4 W.150-1/4 P. to the Beginning, and containing about 247 acres, more or less. Out of said boundary we cut out and laid off to James Monrow Flanary, the father of said Alexander C. Flanary, three-sevenths of the widow Chandler doer lands, which is bounded as follows to-wit: BEGINNING at a planted rock, one pole up the branch above a stake corner to a lot, known as the D.S. Lawson lot, thence up the hill, so as to leave a right of way for stock and wagons and all kind of travel to the lands of said Alexander C. Flanary, on the nothern side of the Lawson lot; thence S. 76 W.11 P. to a black oak; N.62-1/4 W.10-3/4 P. to a black oak; N.28 W.31 P. to a chestnut on the Nothern line of said Flanary lands; thence N.37-1/4 E.12-3/4 P. to a rock on Bradley's branch; thence down said branch as it meanders, S.11-3/4 E.8-1/2 P. to a rock; S.33-1/2 E.10 P. and 3 feet to a rock above a spring; S 11 E.7 P.; S.35-1/2 E. 28 P.; S.45-1/2 E.16 P.; S.28 E.19 P. to the Beginning, and containing about ³3) acres, more or less. Said A.C. Flanary Owned four-sevenths of said Chandler dower land, and the said J.M. Flanary the other 3/7. We also cut out of said boundary of land, first above described, one small lot known as the D.S. Lawson lot; and one lot known as the John Oxford lot, and one lot known as the Mary Pugh lot, - all lots together containing about one acre, and are located on both sides of the public road, and near Wallen's creek,

On said land first above described, and belonging to said Alexandre C. Flanary is a mill. Owing to its condition, situation, value and the condition of said Flanary's heirs and widow; and as none of the heirs seemed to want it, we laid off with the said mill and around it, the following boundary, to-wit: Beginning at a stake 16 feet S.W. of the three small white oaks on the bluff, opposite and east of the said mill, S. 45 W. 13-1/2 P. to a stake in the bottom; N. 25 W. 12 P. to a stake; N. 72 E. 17-1/2 P. to walnut on the bluff; so passing and running as to include the mill in the lot of land; S. 21 E. 4 P. to the Beginning and containing about one-acre. We did not think it expedient to divide and partition this last named little lot of land and mill, and thought it would be to the best interest of all parties in interest that your honor through a commissioner sell said lot and mill and divide the proceeds of sale among the said six children and heirs of said A.C. Flanary; and we recommend that it be so sold. The widow is to have no share in this mill property or the proceeds of sale of the same. We gave her dower interest in lands out side, which will be hereinafter described. Said Mill lot is to have with it the use of the mill pond as it is now situated, and no person is to have the right to claim damages for its use or for back waters from said mill pond, or to interfere with the same in any way.

We then laid off and assigned to Louisa Flanary, widow of the said Alexander C. Flanary, for her natural life, and as and for her dower in the said land first above described, and which we deemed to be an equal one-third of the same in rental value and also so laid it off, as to include the dwelling house of said decedent, two lots, and shown on the plat filed herewith as lots numbered One and nine, the first or number one is bounded as follows, to-wit: Beginning at a stake and Buckeye on Sibert's line, corner to J.M. Flanary's land, thence with a line of the same N. 22 W. 110-1/2 P. to three small white oaks, on the bluff opposite the said mill; N. 2-1/4 W. 43-1/4 P. to a stake on the south bank of the creek; thence down the ~~xxxxxxx~~ ^{southern} bank of mill pond, on Wallen's creek, about 50 P. to a stake on a line of said Mill lot; thence with

S.72 E.2-1/4 P.to a walnut;thence S.21 E.4 P.to a stake on said mill lot;thence with a line of same S.45 W.18-1/2 P.to a stake on said mill lot and corner to same;thence leaving said mill lot;S.61-1/2 W.16-1/4 P.to two willows on the nothern bank of said Wallen's creek; S.22 E.96 P.to a stake on Sibert's line;thence with a line of same, N.71-1/4 E.34 P.to the Beginning and containing about 25 acres.

Lot No.Nine Bounded as follows,to-wit: Beginning at rock on Bradley's branch,and corner to James M.Flanary,three-sevenths,Chandler land, thence up the said branch,N.28 W.19 P.to a stake;N.45-1/2 W.16 P. to a stake;N.35-1/2 W.23 P.to a stake;N.11 W.7 P.to a rock;corner to the Allen Four acre lot;with the same,N.89 E.3-1/4 P.to a rock on the hill side;N.66 E.7-1/2 P,to a sourwood;N.15 W.52 P.to pointers; S.66 W.14-1/2 P.to a rock in Bradley's branch;thence up said branch, N.6 W.22 P.~~to~~ to rocks,N.42-1/2 E.2 P.to stake corner to lot No.7; thence N.60 E. 52 Poles, to stake and pointers,on the line of the lands of ~~James M.Flanary~~ ^{G.S.Lawson,};thence with a line of same,S.41-1/2 E.62 P.to a hickory and black oak,and corner to lot No.,8.thence with a line of same S.35 W.47-1/2 P.to pointers;S.20 E.25 P.to a chestnut S.37-1/4 E.30-3/4 P.to a stake on the north bank of the public road; thence leaving lines of lot No.,3,and with said road,S.25 W.22 P. to a stake on lot No.6. thence leaving said road S.78 W. 24 P.short three feet to the Beginning and containing 49 acres.

We laid off and assigned to James M.Flanary,Jr.and one of the children and heirs of said A.C.Flanary,lots No.2 and 8,as shown on said plat, Lot No.^{Two} ~~Four~~ bounded as follows,to-wit: Beginning at a stake,corner to lot No.one of dower,in Sibert's line,thence with Sibert's line S.71-1/4 W.39-1/2 P.to a stake,corner to lot No.3;thence with a line of lot No.3,N.14-1/2 W.143 P.to a stake,on the South bank of Wallen's creek,and two sycamore pointers,and corner to lot No.4.;thence 63-1/2 E.10 P,to a large sycamore.N.73-1/2 E.17 P.to stake in edge of public road;thence N.60 E.9 P.to a stake in the mouth of the Mill lane,and thence with the said lane,S.35 E.33 P.on to a stake on the line of the mill lot;N.72 W.6 P.to a stakecorner to said mill lot;thence S.25 E.12 P.to a stake on the said dower line of lot No.one;thence with the same S.61-1/2 W.16-1/4 P.to

Sella Flanary in her father's real estate having bought the share of his sister

two willows on the north bank of said creek, dower corner, and with line of the same, S.22 E.96 P, To the Beginning and containing 29-3/4 acres, more or less. Lot No.8, Eight, and where he now lives, we alid off and assigned to said J.M.Flamary, Jr. and it is bounded as follows, to-wit: Beginning, at a hickory and oak on the ridge and on a line of the G.S.Lawson land, thence with a line of the same S.41-1/2 E. 88 P.to a stake and black oak, on J.Monrow Jlamary's land; thence with a line of the same S.71 -1/4 W.50-1/2 P.to a stake on the south bank of the public road, and corner to lot No.6; thence with lines of the same N.52-1/2 W.4 P.to a stake; S.57 W.8-3/4 P.to a stake, corner to dower lot No.9.; thence with a line of the same, N.37-1/4 W.30-3/4 P. to a chestnut; N.20 W.25 P.to pointers; ~~..~~ N.35 E. 47-1/2 P. to the Beginning, and containing 23 acres more or less.

As and for the share of W.Bates Flanary, another of the children and we assigned to him, heirs of said A.C.Flanary, three lots of land, Numbered on said plat as lots No. ~~two~~, three, six and seven. No Three is bouned as follows, to-wit Beginning at a stake on Sibert's line and corner to lot No.two, and with lines of the same, N.14-1/2 W.143 P.to a stake and two sycamores, on the south bank of Wallen's creek, thence leaving lot No.two, N.71 W. 6-3/4 P.to a stake and sycamore, a corner to lot No.four; thence with lines of the same, S.10-1/2 E.146 P.to a stake on Sibert's line, and thence with the same, N.71-1/4 E.16 P.to the Beginning, and containing 11 acres, more or less. Lot No.six assigned to said W.Bates Flanary, Bounded as follows to wit: Beginning, at a rock on Bradley's branch, a corner to James Monrow Flanary, 3/7 Chandler doer interest above referred to, and also a corner to said Louisa Flanary dower interest, in lot No.nine, and with lines of the same, N.78 E.24 P.to a stake; on the north bank of the public raod; N.25 E.22 P.to a stake, corner to lot number eight, N.75 E. 8-3/4 P.to a stake, S.52-1/2 E.4 P.to a stake, on the south bank of the road, thence leaving lot No.8, S.22-1/2 E.about ten poles to a stake, on the north bank of the creek, thence down with the northern bank of the mill pond at high water mark, about 55 poles, to a stake on a line of the mill lot, and with the same, N.72 W.2 P.to a stake in the edge of the road, corner to lot No.9, and with line of the same, N.35 W.33 P.to a stake in

the mouth of the mill lane, and public road, S.60 W.9 P. to a stake in the bend of the road, near a beech; thence with a line of the Lawson lot, N.37 W.3 P. to a stake, N.33-1/4 W.2 P. and 9 feet to a stake, N.28-1/4 W.3 P., so as to include the spring, to a rock, corner to the Lawson lot; thence up the branch northwardly one pole, to a rock, ~~xxxxxx~~ to the Beginning, and containing about four acres.

We then laid off to said W. Bates lot No. seven shown on said plat, and is bounded as follows, to-wit: Beginning at a stake in Bradley's branch, near a white oak, a corner to lot No. 9, and with the same, N.60 E.52 P. to stake and pointers, on the original Lawson line, and with the same, N.41-1/2 W.19-3/4 P. to two white oaks on a ridge; S.72-1/2 W.13-1/2 P. to a white oak; S.62 W.27-3/4 P. to a stake in Bradley's branch, near a beech tree; thence down said branch, S.14 E. 24 P. to the beginning, and containing six acres, more or less.

We then laid off and assigned to Millard F. Flanary, son of said A.C. Flanary, Lot No. four, which we deemed a one-sixth interest in value of said A.C. Flanary's land, outside of the dower lands, BEGINNING at a stake on Sibert's line, and corner to lot No. three, and with lines of same, N.10-1/2 W.146 P. to a stake, on the south bank of Willaen's creek, and corner to lot No. Three, S.71 E.6-3/4 P. to a stake, corner to lot No. two and three; N.68-1/2 E. crossing the said creek 6 P. to a stake, corner, to lot above excepted out of said tract of land, N.45 E.14-1/4 P. to a rock, corner to the said Lawson lot ~~xxxxxx~~, on Bradley's branch, thence up said branch, one pole to a rock, corner to the James Monrow Flanary, 3/7 Chandler dower interest; with lines of the same, S.76 W.11 P. to a black oak; N.62-1/2 W.10-3/4 P. to a black oak; N.28 W.81 P. to a chestnut, on the original northern boundary line of said A.C. Flanary's land, and with the same S.87-1/4 W.31-3/4 P. to a stake, corner to lot No. 5. and with the same, S.21 E.94 P. to a stake, N.69 E.10 P. to a stake, S.27 E.47 P. to a stake, on the south bank of Wallen's creek, S.37-1/2 E.12 P. to a black oak on a bluff; S.4-1/2 E.103 P. to a stake on Sibert's line; thence with the same, N.71-1/4 E.20 P. to the BEGINNING, and containing 24 acres, more or less.

We then laid off and assign to H.Nelson Flanary, another son of said A.C.Flanary a two-sixths interest in value of said land, that is the interest of himself by inheritance and the interest of M.Belle Slempe, a daughter of said A.C.Flanary, and whose interest he had purchased from the said M.Belle Slempe. We laid off these two interests at the place we did, because said H.Nelson Flanary owned a tract of land adjoining it, and we saw no injury would be done to any of the other heirs to assign him his said two-sixths interests at the place we did; so we laid off and assigned to him lot No. five shown on said plat and bounded as follows, to-wit: Beginning at a stake on said Sibert's line, and corner to said lot No. 4., N. 4-1/2 W. 103 P. to a black oak on a bluff, N. 37-1/4 W. 12 P. to a stake, on the south bank of Wallen's creek; N. 27 W. 47 P. to a stake, S. 68 W. 10 P. to a stake; N. 21 W. 94 P. to a stake on the north line of said tract of land; thence leaving lot No. 4, S. 37-1/4 W. 28-1/2 P. to a black oak and dog-wood; S. 19-1/2 E. 103 P. to a stake; S. 27 E. 22 P. to a sycamore on the north bank of Wallen's creek, thence up said creek, S. 68-1/2 E. 20 P. to a stake, S. 64-1/2 E. 14 P. to a stake, S. 25 W. 10 P. to a stake on the top of the creek bluff; thence S. 4-1/4 W. 109 P. to a rock, original Sibert's corner, and with his line, N. 71-1/4 E. 42-1/2 P. to the Beginning and containing 48-3/4 acres more or less,

Lots Number seven, nine, and the Allen lots and their owners shall have a right of way down and up Bradley's branch, and the same shall follow the ownership of said lots in whose ever's hands said lots of land may fall hereafter.

Lot Number two shall have a right to use the spring on lot No. one for family and domestic use; and also the right to use the water for stock purposes coming from said spring, but not so as to interfere with the head of said spring. This spring referred to is located on the southern side of Wallen's creek, between a bluff and and said creek. Lot no. two, nor any owner of the same shall ^{not} so enclose or use the said spring so as to interfere with the use of the same by the owner of said lot No. one.

on the ~~The said widow's flower land~~ ^{The said widow's flower land} the part of lot number four that lies

numbered nine

The said widows dower, and that part of lot number four that lies on the northern side of Wallen's creek, shall have a right of way down Bradley's branch, a distance of about 10 poles from a rock corner to the James M. Flanary's 3/7 Chandler dower to the public road, not more than 16 feet wide.

We gave lot number three, assigned to said W. Bates Flanary a right to go upon lot number six to the big spring, near the public road, and take therefrom water for domestic purposes.

There shall be left open a public passway from the mill lot to public road as now situated; this is to be for the benefit of said mill lot, and any subsequent owner of the same, and all other persons interested in said A. C. Flanary lands, either by this assignment or any purchaser of any share assigned as aforesaid to said persons.

As before stated we did not think that said one-acre mill lot could be conveniently partitioned; so we recommend its sale by a proper commissioner.

All of which is respectfully submitted, this the 12th day of December, 1905.

<u>U. S. Banner,</u>)
<u>W. E. Thompson</u>)
<u>W. S. Hickman</u>)
<u>W. E. Fletcher</u>)
	Commissioners

J. M. Flanagan Jr. et al:

vs. } Leases
 } Report
 } of
 } Partition

Cella Flanagan et al

Filed Dec. 13, 1905 -

H. E. Ewing,
Attorney

Recorded in Deed
Book 44 page 114 etc

2
Examined 1906
Indexed

James M. Flanary, Jr. et al. Complainants,

Vs. Report of E. W. Pennington.

Ella Flanary, et als.

To the Hon. H. A. W. Skeen, Judge of the Circuit of Lee County:

Your undersigned commissioner, begs leave to report that H. L. Slemph the purchaser of the mill lot of land, reported in this cause, as shown by a report of myself as Commissioner, filed herein on the 19th day of February, 1906, on the 27th day of November, 1906, paid to your Commissioner the sum of \$361.80, which is the entire balance owing by him on the purchase price of said mill lot; and on the payment of the said sum, your commissioner delivered to said Slemph, his two notes, which he had previously given for said deferred payments.

Now on account of said payment to him, your commissioner has in his hands said sum of \$361.80, which should be equally divided among the six heirs of said A. C. Flanary, whose names are as follows: J. M. Flanary, Jr. H. N. Flanary, Mollie B. Slemph, Ella Flanary, Milford S. Flanary, and W. B. Flanary, the last two being infants, but the said J. M. Flanary having heretofore been appointed and is now their guardian.

Now your Commissioner prays that he be directed to pay out said sum of money to said six heirs, in equal shares.

Said Slemph informs your commissioner that he has sold said mill lot of land to one H. J. Yeary, and desires that a Commissioner be appointed to make to said Yeary a deed to said land, instead of to himself.

All which is respectfully submitted. This Dec., 6th, 1906.

E. W. Pennington

Commissioner:

All which is respectfully submitted. This Dec., 31st, 1906.
himself.

be appointed to make to said Yearry a deed to said land, instead of to
lot of land to one Yearry, and desires that a Commissioner
said Clerk informs your commissioner that he has said said will
sum of money to said six heirs, in equal shares.

Now your Commissioner prays that he be directed to pay out said

six heirs of said A.C. Flanary, whose names are as follows: J.M. Flanary, Jr., et al.
heirs said said of said which should be equally divided among the
Now on account of said payment to him, your commissioner has in his
hand previously said for said deferred payments.
and said, your commissioner delivered to said Clerk, his two notes, which
in said the balance of said will lot; and on the payment of the
Commissioner the sum of \$361.30, which is the entire balance owing by
of said said the 27th day of November, 1906, paid to your
by a said said master as Commissioner, filed herein on the 14th
step the balance of the will lot of land, reported in this cause, as

Report.

Ellan Flanary, et al.

Filed on the 10th day of Dec.
1906.

Clerk.

Your undersigned commissioner, page leaves to report that H.L.

To the Hon. H.A.W. Green, Judge of the Circuit of Lee County;

Ellan Flanary, et al.

vs.

Report of H.A.W. Greenington.

James M. Flanary, Jr. et al.

Complainants,

James M. Flanary, Jr., et al. Complainant.

Vs.

Report of deed.

Ella Flanary et als, defendants.

To the Hon. H. A. W. Skeen, Judge of the Circuit Court for Lee County:

Your undersigned commissioner appointed in the above styled cause on the 10th day of December, 1906, beg leave to report that in pursuance to the terms of the said decree, he has made the deed directed, and herewith append the same, and advise the confirmation of the same.

All of which is respectfully submitted, this Dec., 11, 1906.

Commissioner.

J.M.Flanary, Jr. et al.

Vs. Report of deed

Ella Flanary et al.

Filed on the 11th day Dec.
1906.

H. C. D. Ewing
Clerk.

James M. Flanary, Jr., et als. Complainants,

Vs.

Elian Flanary, et als. Defendants.

To the Hon. H. A. W. Skeen, Judge of the Circuit Court of Lee County:

Your undersigned Commissioner, begs leave to report that pursuant to a decree entered in this cause on the 10th day of December, 1906, he has paid out the said sum of \$361.80, shown in his report filed in this cause on the 10th day of this month, as follows:

J. M. Flanary, Jr,	the sum of sixty dollars and thirty cents -	\$60.30.
H. N. Flanary,	" " " " " "	60.30.
Mollie B. Slomp,	" " " " " "	60.30.
Ella Flanary,	" " " " " "	60.30.
J. M. Flanary, Guardian for Milford S. & W. B. Flanary,		<u>120.60.</u>

Making a total paid out the above named parties, \$361.80.
which is the whole sum in my hands.

Now having paid out in full all the moneys in my hands in this case, your commissioner prays that he be further relieved from duty, and from further liability on his bond in this case.

All which is respectfully submitted. This Dec., 11, 1906.

E. H. Pennington

Commissioner.

J.M.Flanary, Jr., et als.

Vs. Report of disbursements.

Ella Flanary et las.

Filed on the 11th day of
Dec., 1906.

A. C. J. Ewing, Clerk
Judge.



Dec. 10th 1906

Received from E. M. Huntington Accts.
Sixty & ³⁰/₁₀₀ ————— Dollars.
my share in mill lot due to
J. M. Flannery Jr. et al vs. Ella Flannery

\$ 60.30

E. M. Flannery.

Costs:

Clerk \$13.99

Shff. 50

W. A. L. 5.00

Atty 15.00

Estimated 3.00

\$37.49

Commission 15.00

\$52.49

J. M. Flanary Jr. et al

vs } Bill

Ella Flanary et al

Sold mill Feb 3rd
1906 to H. L. Blum
for \$200.00

E. H. P.

Decree final Dec.
Term. 1906

